



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5402 (Substitute H-3 as passed by the House)
House Bill 5403 (Substitute H-3 as passed by the House)
Sponsor: Representative Diana Farrington (H.B. 5402)
Representative Sherry Gay-Dagnogo (H.B. 5403)
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 4-30-18

CONTENT

House Bills 5402 (H-3) and 5403 (H-3) would amend the Revised Judicature Act and the juvenile code, respectively, to do the following:

- **Require the consent of a minor witness's nonoffending parent or legal guardian for a witness's videorecorded statement to be used for training purposes.**
- **Specify that the consent would have to be obtained through execution of a written, fully informed, time-limited, and revocable release of information.**
- **Allow a videorecorded statement to be used for training those in another county that would meet the definition of "custodian of the recorded statement" if the statement had been taken in that county.**

Each bill would take effect 90 days after its enactment.

In some cases, the Act and the code allow special accommodations for individuals, such as using a video recording of a witness statement for a witness who is under 16 years of age, is 16 or older and has a developmental disability or, under the Act, is a vulnerable adult.

If authorized by the prosecuting attorney in the county in which the videorecorded statement was taken, a statement may be used to train the custodians of the videorecorded statement in that county on the forensic interview protocol implemented as required by Section 8 of the Child Protection Law, or as otherwise provided by law.

("Custodian of the videorecorded statement" means the investigating law enforcement agency, prosecuting attorney, or Department of Attorney General or another person designated under the county protocols established as required by Section 8 of the Child Protection Law. The Act also refers to the Department of Human Services and the code refers to the Family Independence Agency. The bill would delete those references.

Section 8 of the Child Protection Law requires the prosecuting attorney in each county and the Department of Health and Human Services to adopt standard child abuse and child neglect investigation and interview protocols using protocols developed by the Governor's Task Force on Children's Justice as a model.)

The bills would require, in addition to authorization from the prosecuting attorney, the consent of a minor witness's nonoffending parent or legal guardian to use a videorecorded statement

for training purposes. ("Nonoffending parent or legal guardian" would mean a natural parent, stepparent, adoptive parent, or legally appointed or designated guardian of a witness who is not alleged to have committed a violation of the laws of the State, another state, or the United States, or a court order that is connected in any manner to a witness's videorecorded statement.) The consent would have to be obtained through the execution of a written, fully informed, time-limited, and revocable release of information.

An individual participating in training would have to execute a nondisclosure agreement to protect witness confidentiality.

The bill also would allow the videorecording to be used for purposes of training people in another county that would meet the definition of "custodian of the videorecorded statement" had the statement been taken in that county.

MCL 600.2163a (H.B. 5402)
712A.17b (H.B. 5403)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.